



Implementation of the Environmental Advisory Rules Committee's (ARC) Recommendations

Air Quality Division

April 2015

Recommendation A-1: Air Toxic Rules (IN PROCESS)

Recommendation:

The Committee makes the following recommendations regarding Air Toxics rules:

- The parts of R 336.1224 dealing with compounds that are considered volatile organic compounds (VOCs) should be rescinded. Portions of R 336.1224 are redundant because R 336.1702 requires a control technology review for VOCs. VOC-based emission control is more effective under R 336.1702 and this entire regulation exceeds federal standards.
- R 336.1225 should be amended and specifically include the following:
 - Limit permit modification reviews to those increases in a Hazard Index exceeding 10% above the previously permitted baseline.
 - Exempt sources that are identified in a MACT source category.
 - Exempt clean fuels such as natural gas, low sulfur #2 fuel oil, and non-chemically treated biofuels.
 - Exempt pollution control projects for existing sources from the air toxic regulations.
 - Limit the number of air toxics to the federal HAPS list.
 - Make the acceptable exposure limits consistent with other nearby states.
 - Stop requiring permit holders to conduct elaborate and costly stack tests to provide emissions research data, since the DEQ does not use this information for subsequent permit reviews.
- R 336.1228 should be rescinded. This rule allows the Air Quality Division to go beyond the requirements of the rule for any reason.

Response:

The Air Quality Division's (AQD) Air Toxics Workgroup held nine meetings between December 3, 2012, and September 25, 2013. In September and October 2013 Workgroup members submitted comments to the AQD on two iterations of the Workgroup's final draft report. A few remaining issues were then resolved between the AQD and Workgroup members in December 2013, and the report was finalized on January 31, 2014. Almost all of the Environmental ARC's recommendations are being addressed via proposed rule changes or changes in AQD procedures, as appropriate. The Request for Rulemaking (RFR) for amendments to the Part 1 and Part 2 rules were approved by the Office of Regulatory Reinvention (ORR) on December 9, 2014, and are identified as ORR rule set numbers

2014-153 EQ and 2014-154 EQ, respectively. Revisions to the RFRs were approved by the ORR on March 23, 2015.

Contact: Joy Taylor Morgan, 517-284-6765, taylorJ1@michigan.gov

Recommendation A-2: Mercury Rules: Part 15 Rules (R 336.2501 – R 336.2514) (COMPLETED)

Recommendation:

Amend Part 15 rules to add a statement that stays compliance with Rules 336.2512, 336.2503(2)(a) & (6), 336.2509(1) and 336.2513(1)(a) & (3) until January 1, 2015. The Michigan Mercury Rules requirements will be effective on this date unless an applicable federal rule to control mercury has been published in the Federal Register. Once the applicable federal rule to control mercury has been published, the Michigan Mercury Rules should be rescinded.

Response:

Revisions to the Part 15 rules became effective on October 28, 2013. The purpose of these revisions was to align the compliance dates with the federal Mercury and Air Toxics Standard (MATS) and to reflect that the Part 15 requirements will remain in effect on January 1, 2015, unless an applicable final federal rule to control mercury is legally enforceable and in effect. MATS is currently under challenge in federal court.

Contact: Mary Maupin, (517) 284-6755, maupinM@michigan.gov

Recommendation A-3: Additional Rule 201 (Permit to Install) Exemptions (IN PROCESS)

Recommendation: Michigan should adopt a new exemption rule for minor sources with *de minimis* potential to emit. This exemption rule should be similar to the minor new source review thresholds adopted by the U.S. Environmental Protection Agency (USEPA) for its own permitting program in Indian Country (40 CFR, Subpart C), and should read as follows:

“New sources with a potential to emit less than the following amounts in an attainment area would be exempt from the requirement to obtain a permit to install:

CO	10 tpy
NOx	10 tpy
SO2	10 tpy
VOCs (non-carcinogenic)	5 tpy
PM	10 tpy
PM10	5 tpy
PM2.5	3 tpy
Lead	0.1 tpy
Fluorides	1 tpy
Sulfuric Acid Mist	2 tpy
Hydrogen Sulfide	2 tpy
Total Reduced Sulfur	2 tpy
Reduced S Compounds	2 tpy
MSW Combustors	2 tpy

MSW Landfills	10 tpy
In non-attainment areas, the NAA compound-specific thresholds would be:	
CO	5 tpy
NOx	5 tpy
SO2	5 tpy
VOCs (non-carcinogenic)	2 tpy
PM	5 tpy
PM10	1 tpy
PM2.5	0.6 tpy
Lead	0.1 tpy”

Response:

The ten members of the Exemption Workgroup held their first meeting on December 20, 2012. The Exemption Workgroup held additional meetings on January 24, 2013; March 6, 2013; April 10, 2013; May 1, 2013; June 5, 2013; July 10, 2013; August 7, 2013; and August 26, 2013. The Exemption Workgroup report has been completed. The Air Advisory Council (AAC) recommends addressing U.S. Environmental Protection Agency (U.S. EPA) concerns with previously-submitted exemptions in this same rulemaking package, as well as developing a different mechanism for Rule 291 exemptions. The RFR for amendments to the Part 1 and Part 2 rules were approved by ORR on December 9, 2014, and are identified as ORR rule set numbers 2014-153 EQ and 2014-154 EQ, respectively. Revisions to RFRs were approved by the ORR on March 23, 2015.

Contact: Tracey McDonald, 517-284-6756, mcdonaldt@michigan.gov

Recommendation A-4. Rule 206 Process Deadlines (COMPLETED)

Recommendation:

R 336.1206 must be more specific and must include a definition for “administratively complete”. The rule should be amended to:

- Include a definition of “administratively complete” in Part 1.
- Require the Air Quality Division (AQD) to make an “administratively complete” determination within 10 days of the receipt of the application.
- Require AQD to act (issue or deny) on all minor source Permit to Install (PTI) applications within 180 days of receipt. This should include “opt-out” PTIs.
- Require AQD to act (issue or deny) all major source and major modification PTI applications within 240 days from the date of receipt.
- Allow for the extension of these deadlines with the mutual consent of both the applicant and the DEQ.

Response:

Revisions to Rule 206 became effective on October 28, 2013. Rule 206 addresses processing of applications for permits to install. The revisions require the AQD to act on all permit to install applications within 180 days of receipt, unless public participation is required, in which case a 240 day deadline will be required. Extensions to these deadlines will be granted with mutual consent of both the applicant and the DEQ.

Contact: Mary Maupin, (517) 284-6755, maupinM@michigan.gov

Recommendation A-5: Dispersion Modeling Guidance Document (COMPLETED)

Recommendation:

The DEQ should organize a stakeholders group by January 1, 2012 to develop a new Policy Guidance Document (PGD) that considers the new National Ambient Air Quality (short-term) Standards (NAAQS) for NO_x and SO₂. Finalization of the new PGD should become effective no later than March 1, 2012. This PGD should be modified, with stakeholder consensus, within 90 days of USEPA's promulgation of any subsequent new or revised NAAQS.

Response:

A draft policy and procedure was presented to the AAC at its March 1, 2013; May 9, 2013; and January 29, 2014, meetings. On May 28, 2014, the AAC recommended that additional meetings on the dispersion modeling policy be held over the summer of 2014, and for this recommendation to be added to the October 29, 2014, AAC agenda. A new version of the draft guidance document provided to the AAC on December 3, 2014, AQD Policy and Procedure No. AQD-22, "[Dispersion Modeling Guidance for Federally Regulated Pollutants](#)," was finalized on March 3, 2015. The AAC concurred with the new policy at their April 15, 2015 meeting.

Contact: Mary Ann Dolehanty at 517-284-6791 or dolehantym@michigan.gov

Recommendation A-6: Averaging Times and Testing (COMPLETED)

Recommendation:

The DEQ should review Air Quality Division's Operational Memorandum No. 18 to ensure it is consistent with federal test methods and make changes to the Memorandum if necessary. Stakeholder input should be included in any change to the Memorandum.

Response:

A finalize policy and procedure, identified as AQD-018 was presented to the Air Advisory Council at their March 1, 2013 meeting. This procedure can be found on the [DEQ Policy and Procedures](#) Web site.

Contact: Karen Kajiya-Mills, (517) 284-6780, kajiya-millsK@michigan.gov

Recommendation A-7: Rule 801, Rule 803, and State Implementation Plan (SIP) (ON HOLD)

Recommendation:

The Air Quality Division (AQD) should amend R 336.1801 and R 336.1803 and the SIP, to only include electrical generating units (EGU's) that contribute electricity to the grid. A stakeholder

group should commence rules development activities by January 1, 2012 and submit a proposed rules package for public comment by no later than April 1, 2012.

Response:

The federal Cross-State Air Pollution Rule that changed the federal emissions trading program was vacated by the Washington, D.C., Court of Appeals on August 23, 2012. In April 2014, the U.S. Supreme Court upheld the rule. Decisions on how to proceed with implementation of the rule have yet to be made by the U.S. EPA, and the Court of Appeals must still rule on outstanding legal arguments. This recommendation remains on hold for the time being.

Contact: Barb Rosenbaum, 517-284-6759, rosenbaumb@michigan.gov

Recommendation A-8: Michigan Continuous Emission Monitoring Rules (COMPLETED)

Recommendation:

R 336.2170 should be amended to be consistent with the federal reporting requirements and limited to semi-annual reporting of excess emissions. The present Michigan rule requires quarterly reporting

Response:

This recommendation has been completed. A [Rule 1170 discussion paper](#) has been prepared.

Contact: Barb Rosenbaum, (517) 284-6759, rosenbaumB@michigan.gov

Recommendation A-9: Visible Emission Limitations (COMPLETED)

Recommendation:

The Air Quality Division (AQD) should develop a Policy Guidance Document addressing the use of visible emissions limits of less than 20% opacity in permit conditions. The process for developing the document should include stakeholder input and require any opacity limits that are more stringent than what is allowed by R 336.1301(1)(a) to be negotiated between the applicant and the AQD. The guidance document should be developed by June 1, 2012.

Response:

A draft policy and procedure was presented to the Air Advisory Council at their March 1, 2013 meeting. The document was also discussed at the May 9, 2013, meeting. After incorporating the changes agreed upon during the meetings, the *Use of Visible Emission Limits Less than 20% Opacity in Permits to Install* Policy and Procedure is finalized. The new Policy and Procedure became effective on July 2, 2013 and is posted on the [DEQ Policy and Procedure Web page](#).

Contact: Mark Mitchell, (517) 284-6795, mitchellM7@michigan.gov

Recommendation A-10: Electrostatic Precipitators (COMPLETED)

Recommendation:

The Air Quality Division should engage with USEPA to determine what it would take to get USEPA approval to rescind R 336.1330. Based upon that feedback, the DEQ should engage with stakeholders to determine whether to rescind or modify the rule, or take no further action.

Response:

Rule 330 requires electrostatic precipitators (ESPs) at listed source types to have automatic control systems that are set to provide maximum control. Rule 330 was promulgated in 1980 as part of Michigan's control strategy to address attainment of the federal standards for total suspended particulates and was also approved to address emissions of particulates from iron and steel sources, as part of the Reasonable Available Control Technology State Implementation Plan in 1992. This rule duplicates requirements in Rule 910 and is obsolete with respect to state-of-the-art ESP systems. Rule 330 was rescinded, effective April 1, 2013.

Contact: Barb Rosenbaum, (517) 284-6759, rosenbaumB@michigan.gov

Recommendation A-11: General Nuisance Rule (COMPLETED)

Recommendation:

With stakeholder involvement, rulemaking should be undertaken to clarify how R 336.1901 is to be used in the Permit to Install process. R 336.1901 should be limited to responding to and resolving *known* odor issues and other nuisances. As part of this review, all templates and standard language will be reviewed to assure the appropriate use of R 336.1901.

Response:

Discussion on this topic continued at the January 16, March 1, and May 9, 2013 meetings of the Air Advisory Council. After incorporating additional changes agreed on during the May 9th meeting, the *Application of Rule 901(b) in the Permit to Install Review Process Policy and Procedure* is finalized. The new Policy and Procedure became effective on July 2, 2013 and is posted on the [DEQ Policy and Procedure Web page](#).

Contact: Cindy Smith, (517) 284-6802, smithC17@michigan.gov

Recommendation A-12: Electronic Permit (NOT TO BE COMPLETED)

Recommendation:

Develop and implement an electronic Permit to Install application system by December 31, 2012. Development of this system should be done primarily by the private sector with quality assurance and regulatory guidance from the DEQ. The funding for this project should be found outside of the current DEQ budget.

Response:

This recommendation is closed as there is no state or private industry funding available.

Recommendation A-13: Stakeholder Involvement in SIP Development (COMPLETED)

Recommendation:

The Air Quality Division of the DEQ should conduct stakeholder reviews to solicit more non-agency input in drafting State Implementation Plans (SIPs).

Response:

This recommendation has been completed. An [SIP discussion paper](#) has been prepared. Although not part of the recommendation, the Air Advisory Council raised a concern about the current set of rules differs from the rules in the SIP. Externs working for the DEQ have been identifying these inconsistencies which AQD will address with the U.S. EPA.

Contact: Mary Maupin, (517) 284-6755, maupinM@michigan.gov

Recommendation A-14: Permit to Install Exemptions

Recommendation:

Amend the R 336.1201 permitting requirements to add new exemptions, and further clarify the current exemptions included in R 336.1278 – R 336.1290.

Response:

See comments under Recommendation A-3.

Contact: Tracey McDonald, 517-284-6756, mcdonaldt@michigan.gov

Recommendation A-15: Volatile Organic Compounds (VOC) Emissions from Pharmaceuticals (NOT TO BE COMPLETED)

Recommendation:

Amend R 336.1625 to provide that if a MACT standard applies to the sources identified in R 336.1625 and also establishes VOC limitations, then the requirements in R 336.1625 are not applicable.

Response:

VOC emissions will be a discussion item at the October 29, 2014, AAC Meeting. An agreement was reached at the December 3, 2014, AAC meeting to have a small group work together over the next 90 days to discuss the nexus between the Maximum Achievable Control Technology and Rule 625, as well as State Implementation Plan (SIP) backsliding implications. At the April 15, 2015, AAC meeting, it was agreed not to pursue this recommendation.

Recommendation A-16: Renewable Operating Permits - Volatile Organic Compounds from Small Sources (COMPLETED)

Recommendation:

Rules 611 and 707, which became effective on January 19, 1980, were part of Michigan's control strategy to address ozone and Rule 611 is a required Reasonable Available Control Technology (RACT) rule. The federal Clean Air Act required a State Implementation Plan to reduce volatile organic compound (VOC) emissions from various source types to address non-attainment with the National Ambient Air Quality Standard for ozone.

Response:

RULES 611 and 707(3)-(4) DISCUSSION

Rule Requirements and History

Rules 611 and 707 contain requirements for the operation of cold cleaners. Rule 611 applies to existing cold cleaners placed into operation before July 1, 1979 and Rule 707 applies to new cold cleaners placed into operation on or after July 1, 1979. Rule 707(3) and (4) identify requirements for all new cold cleaners. Rules 611 and 707 do not apply to cold cleaners subject to the National Emission Standards for Hazardous Air Pollutants for halogenated solvent cleaners in 40 CFR Part 63, subpart T.

ORR Recommendation A-16

The DEQ should work with stakeholders to simplify the process for demonstrating compliance with Rules 611 and 707(3) and (4) for Renewable Operating Permit (ROP) facilities.

Analysis

All major sources are subject to ROP requirements under Rules 210-217 and Title V of the Clean Air Act. Per Rule 213(2), the ROP must contain conditions that ensure compliance with all applicable requirements. This includes the applicable requirements of Rules 611 and 707 for any source that has a cold cleaner.

A template table was developed to include in any ROP for a source with a cold cleaner that is either grandfathered or exempt from new source review under Rules 281(h) or 285(r)(iv). This template is structured to be a flexible group to include new and/or existing cold cleaners on-site into a single table. It includes all specific provisions of each rule to provide for maximum flexibility and allows for cold cleaners to be added or replaced without having to modify the ROP. The template table clearly identifies all applicable requirements for proper operation of cold cleaners. It also includes material limits on solvents as a means to prevent emission units

subject to subpart T from improperly using the table and identifies the permit to install exemption requirements. The table provides a clear basis of compliance for the permittee.

The cold cleaner template table has undergone review by stakeholders on several occasions. The most recent review was conducted during the ROP Lean Process Initiative during the fall of 2011, the same time the ORR review activities were taking place. A workgroup consisting of both Air Quality Division (AQD) staff and industrial representatives reviewed all existing ROP templates and sought comments through the Michigan Manufacturer's Association. Through the Lean process, no comments on the cold cleaner table were received and the workgroup did not recommend any changes.

Recommendation

Through the Lean Process Initiative, the AQD worked with stakeholders to streamline the ROP process, including demonstrating compliance with Rules 611 and 707, and it was determined that no changes were needed to the ROP cold cleaner template table. This recommendation has been completed.

Contact: Heidi Hollenbach, (616) 356-0243, hollenbachH@michigan.gov

Recommendation A-17: Rule 703, Gasoline Storage Tanks (>2,000 gallons) (SUSPENDED)

Recommendation:

Amend R 336.1703 to be clear and consistent with new USEPA regulations, while ensuring continued attainment of air quality standards.

Response:

Awaiting action by the federal government on ozone reductions.

Contact: Barb Rosenbaum, (517) 284-6759, rosenbaumB@michigan.gov

Recommendations A-18: Coke Oven Compliance Date Rule (COMPLETED)

Recommendation:

R 336.1349 is obsolete and should be rescinded.

Response:

R 336.1349 was rescinded on October 8, 2012.

Contact: Barb Rosenbaum, (517) 284-6759, rosenbaumB@michigan.gov

Recommendation A-19: Limiting Compounds Required for Annual MAERS Report (COMPLETED)

Recommendation:

Continue to use the existing default MAERS air toxics emission factors as an optional calculation tool for industry, but clearly identify which air toxics have been calculated using U.S. EPA-supplied emission factors in the annual MAERS reports. Furthermore, the DEQ should be prohibited from developing new air toxics rules using D and E-rated emission factors.

Response:

Review of the uncontrolled emission factors for non-criteria pollutants in the MAERS emission estimator has been completed. All factors that did not originate from the EPA WebFire system and all that have been revoked from WebFire have been identified. An IT request has been submitted to remove or inactivate these factors. New WebFire factors not currently in MAERS have also been tabulated and will be evaluated to ensure their addition to MAERS is appropriate.

The above review and evaluation process will be carried out as time allows during 2014 and 2015 for Source Classification Codes newly used in future MAERS submittals, controlled emission factors, and (lastly) all remaining unreviewed factors.

Contact: Barb Rosenbaum, (517) 284-6759, rosenbaumB@michigan.gov

Recommendation A-20: Putting a Hold on the 18-Month Construction Window for a Permit to Install (COMPLETED)

Recommendation:

Amend R 336.1201(4) to provide for a “hold” on the 18-month timeframe if a permit decision has been appealed. The following bold language should be added to Rule 336.1201(4):

*“If the installation, reconstruction, or relocation of the equipment, for which a permit has been issued, has not commenced within, or has been interrupted for, 18 months, then the permit to install shall become void, unless **(a)** otherwise authorized by the department as a condition of the permit to install, or **(b)** the installation permit is the subject of an appeal by a party other than the owner or operator of the air contaminant source that is the subject of the installation permit, in which case the date of termination of the permit is not later than eighteen months after the effective date of the permit plus the number of days between the date in which the permit was appealed and the date on which all appeals concerning the permit have been resolved.*”

Response:

The revision to Rule 201(4) became effective on October 28, 2013. The revision to Rule 201(4) provides for putting a hold on the 18-month construction window if the permit issuance has been appealed.

Contact: Mary Maupin, (517) 284-6755, maupinM@michigan.gov